

MONTEREY COUNTY



DEPARTMENT OF HEALTH Ray Bullick, Director

ANIMAL SERVICES
BEHAVIORAL HEALTH
CLINIC SERVICES

EMERGENCY MEDICAL SERVICES
ENVIRONMENTAL HEALTH

PUBLIC HEALTH
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

December 9, 2015

Tierra Vista MWC
Attn: Ned Simpson/President
25982 High Terrace Lane
Salinas, CA 93908

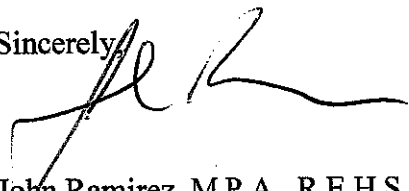
RE: Compliance Order No. 15-012
Tierra Vista MWC, ID # 270-1956

Dear Ms. Stowe,

The California Health and Safety Code (H&SC), Section 116655, gives the Monterey County Health Department, Environmental Health Bureau, (EHB) authority to issue Orders directing compliance with the Health and Safety Code, Division 104, Part 12, Chapter 4 (a.k.a., the Safe Drinking Water Act), and with any permit, standard, or regulation issued or adopted pursuant to said Chapter. This Compliance Order directs the referenced water system to comply with State regulations and domestic water permit conditions by supplying specified documents and information.

The H&SC requires that a water system shall reimburse EHB for costs incurred in enforcement activities related to said system. Enforcement activities include preparing, issuing, and monitoring compliance with an order or citation; preparing and issuing public notification; and conducting a permit suspension or revocation hearing. Our costs, based on our current hourly rate, will be charged to the above water system for any further enforcement. If you have any questions regarding this compliance order, please contact this office at 755-4552.

Sincerely,


John Ramirez, M.P.A., R.E.H.S.
Director, Environmental Health Bureau

Enclosure: Compliance Order No.15-012

cc: Cheryl Sandoval, Supervising Environmental Health Specialist
Jan Sweigert, District Engineer, State Water Resource Control Board

1 **MONTEREY COUNTY HEALTH DEPARTMENT**

2 TO: Tierra Vista MWC, ID # 270-1956
3 Attn: Ned Simpson/President
4 25982 High Terrace Lane
5 Salinas, CA 93908
6
7

8 **COMPLIANCE ORDER NO.05-012**

9 **FOR**
10 **VIOLATION OF HEALTH AND SAFETY CODE SECTION 116655 (a)(1)**
11 **AND THE PRIMARY DRINKING WATER STANDARD FOR ARSENIC**
12 **Dated December 8, 2015**

13 The Monterey County Health Department (hereinafter "Department"), acting
14 through its Local Primacy Delegation Agreement hereby issues this compliance
15 order (hereinafter "Order") pursuant to Section 116655 of the California Health
16 and Safety Code (hereinafter "CHSC") and Section 64258 of the California Code
17 of Regulations to Tierra Vista MWC and its owner of record Tierra Vista MWC for
18 violation of CHSC section 116555(a)(1) and Title 22, California Code of
19 Regulations (hereinafter "CCR"), Section 64431.

20
21 A copy of the applicable statutes and regulations is included in Appendix 1, which
22 is attached hereto and incorporated herein by this reference.

23
24 **STATEMENT OF FACTS**

25 Department is informed by the Water System and believes that the Tierra Vista
26 MWC (hereinafter "Water System") is a privately owned community water system

located in Monterey County that supplies water for domestic purposes to approximately 57 individuals through approximately 19 service connections. The Water System operates under Domestic Water Supply Permit 06201403, issued on June 20, 2014. The Water System is a community public water system as defined in CHSC, section 116275.

The Water System utilizes 1 groundwater well as its source of domestic water. Title 22, CCR, Division 4, Chapter 15, Article 4, establishes primary drinking water standards and monitoring and reporting requirements for inorganic constituents. Community water systems must comply with the maximum contaminant level for arsenic of 0.010 mg/L, as established in Title 22 CCR Section 64431. This arsenic standard became effective on November 28, 2008.

Samples collected from the Water System on May 18, 2010 showed arsenic concentrations of 0.011 mg/L in Well 01. Therefore, in accordance with Section 64432 (g), the Water System was required to begin quarterly arsenic monitoring of each well, unless it chose to submit an additional sample, which it did not do. Section 64431 (i) provides that compliance with the arsenic MCL is based on a "running annual average" (RAA) of the quarterly monitoring samples, computed each quarter. Further, Section 64431 (i) states: "if any one sample would cause the annual average to exceed the MCL, the system is immediately in violation."

A summary of the Water System's arsenic monitoring is presented in Table 1 below. All results are as reported to the Department by the laboratory that performed the analysis.

Table 1: Well 01 (Arsenic Monitoring Results)

Sample Quarter	Well 01 2701959-001
2nd Q 2010	0.011 mg/L
3rd Q 2010	0.009 mg/L
4th Q 2010	0.011 mg/L
1st Q 2011	0.012 mg/L
1st Q 2011 Running Annual Average	0.011 mg/L

The 1st quarter 2011 RAA for Well 01, calculated as the four sample results averaged over a four quarter period, is 0.011 mg/L, which exceeds the arsenic MCL of 0.010 mg/L. Results of samples taken from water produced from Well 01 since 2011 show the RAA for arsenic in said Well continues to exceed the arsenic MCL. The Water System was issued Compliance Order No. 11-003 on January 22, 2009, which required the Water System to come into compliance with the new arsenic standard. The Water System has been working towards compliance, but has not fully complied with this Order in that the Water System is not in compliance with the arsenic standard.

DETERMINATIONS

Based on the above Statement of Facts, the Department has determined that the Water System and its owner of record have violated CHSC, Section 116555 and Section 64431 in that the water produced by Well 01 during the 1st quarter of 2011 exceeded the arsenic MCL as shown in Table 1 above, and further has determined that said violation has continued from 1st quarter of 2011 through the date of this Order.

DIRECTIVES

Water System and its owner of record are hereby directed to take the following actions:

1. On or before March 31, 2018, comply with Title 22, CCR, Section 64431 and remain in compliance.
2. On or before March 31, 2016, submit a written response to the Department indicating its agreement to comply with the directives of this Order and with the Corrective Action Plan addressed herein.
3. Commencing on the date of service of this Order, provide quarterly public notification in accordance with Attachment A, hereto, of Water System's failure to meet the arsenic MCL during any calendar quarter that the four-quarter running annual average exceeds the MCL.

89 4. Commencing on the date of service of this Order, submit proof of each
90 public notification conducted in compliance with Directive No. 3, herein
91 above, within 10 days following each such notification, using the form
92 provided as Attachment B, hereto.

93
94 5. Commencing on the date of service of this Order collect quarterly samples
95 for arsenic from each well, as required by Section 64432(g), and ensure
96 that the analytical results are reported to the State Water Resource
97 Control Board electronically by the analyzing laboratory no later than the
98 10th day following the month in which the analysis was completed.

99
100 6. Prepare for Department approval a Corrective Action Plan identifying
101 improvements to the water system designed to correct the water quality
102 problem (violation of the arsenic MCL) and ensure that the Water System
103 delivers water to consumers that meets primary drinking water standards.
104 The plan shall include a time schedule for completion of each of the
105 phases of the project such as design, construction, and startup, and a
106 date as of which the Water System will be in compliance with the arsenic
107 MCL, which date shall be no later than March 31, 2018. A template for
108 preparing the plan has been attached as Attachment C. An electronic
109 copy of the template is available from the Department upon request.

110

7. On or before March 31, 2016, present the Corrective Action Plan required under Directive No. 6, above, to the Department in person at the Department's offices located at 1270 Natividad Road, Salinas, California.
8. Timely perform the Department approved Corrective Action Plan and each and every element of said plan according to the time schedule set forth therein.
9. On or before September 30, 2016 and every six months thereafter, submit a report to the Department in the form provided as Attachment D, hereto, showing actions taken during the previous calendar six months to comply with the Corrective Action Plan. An electronic copy of the form is available from the Department.
10. Not later than ten (10) days following the date of compliance with the arsenic MCL, demonstrate to the Department that the water delivered by Water System complies with the arsenic MCL.
11. Notify the Department in writing no later than five (5) days prior to the deadline for performance of any Directive set forth herein if Water System and/or its owner of record anticipates it will not timely meet such performance deadline.

All submittals required by this Order shall be addressed to:

Cheryl Sandoval, Supervising EHS
Monterey County Health Department
Environmental Health Bureau-DWPS
1270 Natividad Rd.
Salinas, CA 93906
sandovalcl@co.monterey.ca.us

As used in this Order, the date of issuance shall be the date of this Order; and the date of service shall be the date of service of this Order, personal or by certified mail, on the Water System or its owner of record.

The Department reserves the right to make such modifications to this Order and/or to issue such further order(s) as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be deemed effective upon issuance.

Nothing in this Order relieves Water System or its owner of record of its obligation to meet the requirements of the California SDWA, or any regulation, standard, permit or order issued thereunder.

PARTIES BOUND


This Order shall apply to and be binding upon Water System, its owners, shareholders, officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The Directives of this Order are severable, and Water System and its owner of record shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

FURTHER ENFORCEMENT ACTION

The California SDWA and the California Code of Regulations authorizes the Department to: issue a citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit, standard, citation, or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Department to take action to suspend or revoke a permit that has been issued to a public water system if the public water system has violated applicable law or regulations or has failed to comply with an order of the Department; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Department. The Department does not waive any further enforcement action by issuance of this Order.



John Ramirez, MPA, REHS
Director Environmental Health Bureau
1270 Natividad Rd. Salinas CA 93906

12-9-15

Date

Certified Mail No. 7015 0640 0006 1561 7498

186

187 Cc: Cheryl Sandoval, EHB

188 Jan Sweigert, SWRCB

APPENDIX 1

APPLICABLE AUTHORITIES

CHSC, Section 116555(a)(1) states in relevant part:

(a) Any person who owns a public water system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.

CHSC, Section 116655 states in relevant part:

(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

- (1) Directing compliance forthwith.
- (2) Directing compliance in accordance with a time schedule set by the department.
- (3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

- (1) That the existing plant, works, or system be repaired, altered, or added to.
- (2) That purification or treatment works be installed.
- (3) That the source of the water supply be changed.
- (4) That no additional service connection be made to the system.
- (5) That the water supply, the plant, or the system be monitored.
- (6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

Title 22, CCR, Section 64431 (hereinafter "Section 64431"), states in relevant part:

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010
Mercury	0.002
Nickel	0.1
Nitrate (as NO ₃)	45.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 um in length.

Title 22, CCR Section 64432 (hereinafter "Section 64432") provides in relevant part:

Section 64432

...

(g) If the level of any inorganic chemical, except for nitrate, nitrite, nitrate plus nitrite, or perchlorate, exceeds the MCL, the water supplier shall do one of the following:

(1) Inform the Department within 48 hours and monitor quarterly beginning in the next quarter after the exceedance occurred; or

(2) Inform the Department within seven days from the receipt of the analysis and, as confirmation, collect one additional sample within 14 days from receipt of the analysis. If the average of the two samples collected exceeds the MCL, this information shall be reported to the Department within 48 hours and the water supplier shall monitor quarterly beginning in the next quarter after the exceedance occurred.

(h) If the concentration of an inorganic chemical exceeds ten times the MCL, within 48 hours of receipt of the result the water supplier shall notify the Department and resample as confirmation. The water supplier shall notify the Department of the result(s) of the confirmation sample(s) within 24 hours of receipt of the confirmation result(s).

(1) If the average concentration of the original and confirmation sample(s) is less than or equal to ten times the MCL, the water supplier shall monitor quarterly beginning in the quarter following the quarter in which the exceedance occurred.

(2) If the average concentration of the original and confirmation sample(s) exceeds ten times the MCL, the water supplier shall, if directed by the Department;

(A) Immediately discontinue use of the contaminated water source; and

(B) Not return the source to service without written approval from the Department.

(i) Compliance with the MCLs shall be determined by a running annual average; if any one sample would cause the annual average to exceed the MCL, the system is immediately in violation. If a system takes more than one sample in a quarter, the average of all the results for that quarter shall be used when calculating the running annual average. If a system fails to complete four consecutive quarters of monitoring, the running annual average shall be based on an average of the available data.

Section 64258. Enforcement.

(a) A local primacy agency shall take enforcement actions as necessary to assure that all small water systems under the jurisdiction of the local primacy agency are in compliance with Division 104, Part 1, Chapters 4 and 5; Division 104, Part 12, Chapters 4 and 5 of the Health and Safety Code, and California Code of Regulations, Title 17, Division 1, Chapter 5, Group 4 and Title 22, Division 4, Chapters 14, 15, 15.5, 16, 17, and 17.5.

Attachment 1

Public Notification Template

AN IMPORTANT NOTICE REQUIRED BY THE MONTEREY COUNTY HEALTH DEPARTMENT

Este informe contiene información muy importante sobre su agua potable.
Tradúzcalo o hable con alguien que lo entienda bien.

Tierra Vista MWC, I. D. 2701956

SUBJECT: **Arsenic Quality Standard Failure**

DATE: _____

This notification of all water consumers is being performed in compliance with the laws and regulations of the California State Water Resource Control Board and the Monterey County Environmental Health Bureau (EHB) to keep you fully informed about your drinking water. Chemical analyses indicates that the arsenic content in the water supply exceeds the maximum permissible level set by the State and Federal Drinking Water Regulations. The most recent arsenic test result collected from (site) _____ on _____ was _____ ppb.

HEALTH REGULATIONS BEING VIOLATED: Title 22, *California Code of Regulations*. To protect consumers served by public water systems from the health risks of long-term (chronic) arsenic exposure, the USEPA lowered the arsenic MCL from 50 ppb to 10 ppb, which became effective in 2006. California was required to implement this new standard, and on November 28, 2008, California's new arsenic maximum contaminant level of 10 ppb became effective.

MAXIMUM ALLOWABLE CONTAMINATION LEVEL (MCL): 10 parts per billion (ppb)

SIGNIFICANCE/RISKS OF ARSENIC: Some people who drink water containing arsenic in excess of MCL over many years may experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

EHB IS RECOMMENDING THE USE OF BOTTLED WATER OR WATER FROM AN APPROVED SOURCE FOR DRINKING, COOKING, OR ORAL HYGIENE PURPOSES FOR ALL PERSONS ON THE SYSTEM. CARE SHOULD BE TAKEN IN HANDLING AND TRANSPORTING WATER TO PREVENT BACTERIOLOGICAL CONTAMINATION.

ACTION TAKEN TO CORRECT VIOLATION:

SCHOOLS, OWNER OR OPERATOR OF RESIDENTIAL RENTAL PROPERTY, OR OWNER OR OPERATOR OF BUSINESS PROPERTY: Section 116450 of the California Health and Safety Code requires us to provide this notification of the following: Schools or school systems shall notify school employees, students, and parents if students are minors; owner or operator of residential rental property shall notify tenants; and owner or operator of business property shall notify employees. This notice shall be given within 10 days upon receipt of this notification.

Additionally, if a property owner sells property served by this water system, the seller is responsible for ensuring the buyers are informed of the current water quality and precautions to be taken

FOR FURTHER INFORMATION CONTACT: _____

CONTACT PERSON NAME

WATER SYSTEM NAME

PHONE #

THIS NOTICE IS TO REMAIN IN EFFECT UNTIL PROBLEM IS RESOLVED AND HEALTH
DEPARTMENT GIVES CLEARANCE

Attachment 2

Proof of Notification Template

PROOF OF NOTIFICATION

As required by Section 116450 of the California Health and Safety Code (H&SC), I notified all users of water supplied by the:

Tierra Vista MWC, 2701956

of the maximum contaminant level (MCL) failure for Arsenic for the _____ Quarter of _____ yr. Pursuant to Section 116450(f) in any case where public notification is required because a contaminant is present in drinking water at a level in excess of a primary drinking water standard, the notification shall include identification of the contaminant, information on possible effects of the contaminant on human health, and information on specific measures that should be taken by persons or populations who might be more acutely affected than the general population.

Notification was performed on _____
(Date)

via _____
(method of distribution)

Attachment 3

Arsenic Corrective Action Plan

Arsenic Corrective Action Plan

Date of Plan:

Name of Water System:

Water System ID#: 270-

The water system is currently out of compliance with the arsenic standard. In order to come into compliance, the water system will need to choose a method, secure funding, and install improvements. The final deadline for compliance is March 31, 2018. This plan will detail the steps and timeline that the water system will follow for meeting this deadline. A progress report is required to be submitted to the Monterey County Health Department every six months (September 30th and March 31st) detailing all progress that has been made to date, the status of compliance with the timeline, and any requested changes (with reason for request) to the timeline.

The initial plan will be due March 31, 2016 and shall contain all information known at that time for different compliance options. If adequate information is not available at that time to make a decision about each compliance option, the plan shall include a schedule for making a determination

A. COMPLIANCE OPTIONS: The following are general options for compliance with the arsenic standard. Consider each option and document your findings. The questions are only a guide to help you analyze each option.

1. Consolidate with or purchase water from another system in compliance with water quality standards (How close is the nearest system(s)? Is the system(s) willing to consolidate/sell water? Why or why not (include correspondence)? What are the costs? Any major issues/challenges?)

Is this a viable option? ☐yes ☐no ☐not yet determined

If not yet determined, what is planned action and schedule to make determination?

2. Drill a new well (what is the water quality/quantity of nearby wells? Location available? What are the costs? Any major issues/challenges?)

Is this a viable option? ☐yes ☐no ☐not yet determined

Water System Name:

If not yet determined, what is planned action and schedule to make determination?

3. Treatment (What vendors/engineers have been contacted? What technologies have been considered? Can the system blend with a compliant well? Has treatment discharge or spent media disposal been evaluated? Have potential interfering constituents been considered? Are you doing any testing for interfering constituents? What are the costs of installation and operations? Any major issues/challenges?)

Is this a viable option? ☐yes ☐no ☐not yet determined

If not yet determined, what is planned action and schedule to make determination?

4. Other (including a combination of options)?

Is this a viable option? ☐yes ☐no ☐not yet determined

If not yet determined, what is planned action and schedule to make determination?

After consideration of available options, what is your preferred option?

☐

- ☐ not yet determined (the time line to make a determination needs to be included in the sections above. Funding for a feasibility study to determine preferred option may be available through the State Water Resource Control Board –see item C.2.b.

B. IMPLEMENTATION OF COMPLIANCE OPTION

Once the preferred compliance option has been determined, complete the information below

1. What progress has been made towards implementing chosen compliance option (check and complete information under chosen option. The questions are only a guide. Please detail all information known to date and what additional information is needed.-the timeline for completion shall be detailed in section D)

Water System Name:

- ☐ Consolidate with or purchase water from another system in compliance with water quality standards: What progress has been made? For example: Has agreement been signed, easements secured, engineer hired for plans, plans developed, installation started, etc?
- ☐ Drill a new well: What progress has been made? For example: Has site been secured, well construction permit received, well drilled, testing completed?
- ☐ Treatment: What progress has been made? For example: Has technology been determined, waste disposal location determined, engineer hired, plans developed, installation started, etc?
- ☐ Other: What is it and what progress has been made?

C. FUNDING:

1. Do you have existing funding available? ☐yes ☐no ☐partial

2. If you do not have full funding available, what is your plan to secure full funding?
a. Rate Increase or special assessment? ☐yes ☐no ☐not yet determined

b. Apply to the State Water Resource Control Board Funding Program (funding opportunities may include low interest loans, and partial or full grants depending on eligibility) at:

http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/DWPFunding.shtml

☐ Applied - date of application:

Have you received a response? ☐yes ☐no If yes, attach copy

Water System Name:

☐ Don't plan to apply

- D. **TIMELINE:** The timeline shall include milestones for determining compliance option, implementing option (design, construction, startup), and securing funding. The final date for achieving compliance is June 30, 2018. A progress report will be due each September 30th and March 31st and must show adequate progress towards compliance to avoid further enforcement action

Date:

Milestone: Determine compliance option (detail timeline in Section A)

Date:

Milestone:

Date:

Milestone:

Date:

Milestone:

Date:

Milestone:

Date:

Milestone:

Report submitted by:

Name _____

Date: _____

Signature: _____

Attachment 4

Arsenic Corrective Action Plan Progress Report

Arsenic Corrective Action Plan

Progress Report

Date of Progress Report:

Date of Arsenic Corrective Action Plan:

Name of Water System:

Water System ID#: 270-

The progress report shall detail all progress that has been made since the last submitted report.

A. COMPLIANCE OPTION:

What is the water system's preferred compliance option? _____

If option is not yet determined, use section A in the original Arsenic Corrective Action Plan template to update progress.

B. IMPLEMENTATION OF COMPLIANCE OPTION

Once the preferred compliance option has been determined, complete the information below

1. Some of the options for compliance are listed below along with some of the items that need to be completed in order to implement that option. Indicate your chosen option and detail what progress has been made. The questions are only a guide and may not include all steps that need to be taken. Please detail all information known to date and what additional information is needed.-the timeline for completion shall be detailed in section D)

- ☐ Consolidate with or purchase water - Has agreement been signed, easements secured, engineer hired for plans, plans developed, installation started, etc?
- ☐ Drill a new well - Has site been secured, well construction permit received, well drilled, testing completed?
- ☐ Treatment - Has technology been determined, waste disposal location determined, interfering constituents researched, engineer hired, plans developed, installation started, etc?
- ☐ Other -

Detail the progress that has been made since last submitted report. Also detail your planned actions for the next six months:

Water System Name:

C. FUNDING:

What is the water system's planned source of funding? _____

If source of funding is not yet determined, use section C in the original Arsenic Corrective Action Plan template to update progress.

Detail the progress that has been made since last submitted report. Also detail your planned actions for the next six months. If water system is applying for funding through the State Water Resource Control Board (SWRCB) Funding Program, include a copy of all correspondence received from the SWRCB since your last progress report.

D. TIMELINE:

Have you complied with all milestones in your Arsenic Correction Action Plan?

☐ yes ☐ no

If no, please explain why not.

Do you need to propose any changes to the timeline?

☐ yes ☐ no

If yes, please indicate the proposed change and the reason for requesting the change.

Report submitted by:

Name _____

Date: _____

Signature: _____